REMARKS

This is responsive to the Office Action mailed on June 1, 2006. In the Office Action, claims 1-9, 11-28, and 34-43 were rejected. The Application currently includes claims 1-9, 11-28, and 34-43. Reconsideration of the claims is requested

The Office Action rejected claims 1-9, 11-28, and 34-43 under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. The Office Action alleges that the claims contain subject matter which was not described in the specification in a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Specifically, the Office Action alleges that there is no support in the specification for reciting the claim limitation "the bridges are not glutaraldehyde" in claims 1, 16, 34, and 36.

Applicants respectfully disagree that claims 1, 16, 34, and 36 do not comply with the written description requirement under 35 U.S.C. § 112, first paragraph. Applicant is claiming a negative limitation. Negative limitations are proper. *See* MPEP 2173.05 (i). At page 6, ll. 9-13, the specification states that bridges are chemically different from linkers, and the functional groups of the bridges are generally non-reactive with unmodified tissue or with other bridges. Linkers are defined in the application at page 12, line 14-page 17, line 4. At page 13, ll. 8-9 of the application, linkers are disclosed as including a crosslinking agent. Referring to page 13, ll. 16-20 of the application, dialdehyde crosslinking agents include glutaraldehyde.

Therefore, Applicants were in possession of the subject matter including that linkers and bridges are chemically different. Further, Applicant disclosed that many different chemicals could be used as the linker molecules, including glutaraldehyde. Having the knowledge that glutaraldehyde is a linker and linkers are different from bridges, Applicants can properly negatively claim that a bridge is not glutaraldehyde while complying with 35 U.S.C. § 112, first paragraph.

See generally MPEP 2173.05(i) that discloses that any negative limitation or exclusory proviso must have a basis in the original disclosure. If alternative elements are

positively recited in the specification, they may be explicitly excluded in the claims. *See in re Johnson* 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) ("[the] specification having described the whole, necessarily described the part remaining."). *See also Ex parte* Grasselli, 231 USPQ 393 (Bd. App. 1983), aff'd mem., 738 F.2d 453 (Fed. Cir. 1984). Therefore, Applicants respectfully request that the 35 U.S.C. § 112, first paragraph rejections be withdrawn.

The Office Action rejected claims 1-9, 11-28, and 34-43 under 35 U.S.C. § 103(a) as being unpatentable over the Ogle et al. U.S. Pat. No. 5,958,669 in view of the Yang et al. U.S. Pat. No. 5,935,168. The Office Action alleges that the Ogle patent discloses crosslinking tissue to fix tissue by reacting the tissue with glutaraldehyde. The Office Action alleges that the Yang patent discloses crosslinking tissue with glutaraldehyde and then reacting with a diamine followed by reacting with additional glutaraldehyde. The Office Action alleges that after reacting with glutaraldehyde, as disclosed by the Ogle patent, it would have been obvious to react with diamine and then with additional glutaraldehyde as suggested by the Yang patent. The Office Action alleges that this would result in the diamine being a linker and glutaraldehyde being a bridge. Additionally, after initially crosslinking with glutaraldehyde some free aldehyde groups will remain that will react with the diamine and will result with the glutaraldehyde being a linker and the diamine being a bridge. The Office Action alleges that the aldehyde groups of glutaraldehyde are generally non-reactive with other aldehyde groups of another glutaraldehyde under certain conditions disclosed in the Ogle Patent that controls self-polymerizing. The Office Action alleges that the amine group of a diamine will not react with amine groups of another diamine, and that this results in a bridge not reacting with another bridge.

Applicants respectfully disagree that any of the rejected claims are made obvious by the combination of the Ogle Patent and the Yang Patent. There is no teaching or suggestion which would lead one to combine the Ogle Patent with the Yang Patent except for the present invention.

The Office Action alleges that both the Ogle Patent and the Yang Patent are directed to preventing calcification of a prosthesis. In contrast, the present invention is directed to a novel crosslinked tissue and methods of making a crosslinked tissue having strength and flexibility.

Therefore, it is not understood how the Office Action properly made the combination of the Ogle Patent with the Yang Patent, absent using the present invention as a guide.

Further, the Office Action has failed to provide any factual support for the allegation that when free aldehyde groups are present, a diamine will react with both activated carboxyl groups and the free aldehyde groups. Applicants submit that, as an example, there may be steric hindrance which would prevent the free aldehyde groups and carboxyl groups from reacting. The Office Action has failed to prove a case of *prima facie* obviousness. As such, claims 1-9, 11-28, and 34-43 are not made obvious by the combination of the Ogle Patent with the Yang Patent.

Applicants also incorporate by reference the remarks made in its Response in its March 24, 2006 submission. Therefore, for the foregoing reasons, none of the claims of the present invention are made obvious by the Ogle Patent in view of the Yang Patent. Reconsideration and allowance of claims 1-9, 11-28, and 34-43 are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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